

MEMO ENDORSED



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MICHAEL A. CARDODOZ
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

BRIAN FRANCOLLA
Assistant Corporation Counsel
Tel.: (212) 788-0988
Fax: (212) 788-9776

June 24, 2008

BY HAND DELIVERY

Honorable Denny Chin
United States District Judge
United States District Court
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1020
New York, New York 10007-1312

Re: Christopher Chisholm v. C.O. Harris, et al.,
08 CV 1502 (DC)

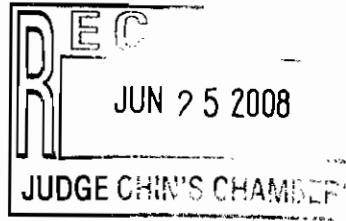
Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of the above-referenced matter on behalf of defendants the New York City Department of Correction and Commissioner Martin Horn. In that capacity, I write to respectfully request a sixty day enlargement of time, from June 24, 2008, until August 25, 2008, within which defendants may answer or otherwise respond to the complaint. I write directly to the Court because plaintiff is incarcerated and proceeding *pro se* in this matter. This is the first request for an enlargement of time.

The complaint alleges, *inter alia*, that plaintiff was assaulted on November 23, 2007 by Correction Officers of the New York City Department of Correction and sustained physical and/or psychological injuries, and that the officers destroyed property belonging to him. In addition to the New York City Department of Correction and Commissioner Martin Horn, plaintiff names Correction Officer Harris, Correction Officer Cooper, Captain Thompson, Correction Officer Washington, Warden Williams and Montefiore Medical and Health Services on Rikers Island. Before we can adequately respond to the complaint, we will need to conduct an investigation into the facts of the case. Given the allegations in this case concerning plaintiff's physical and/or psychological injuries, an enlargement of time will allow this Office to forward to plaintiff for execution an authorization for the release of plaintiff's medical records. Accordingly, defendants require this enlargement so that this Office may obtain the underlying documentation, properly investigate the allegations of the complaint and fulfill its obligations under Rule 11 of the Federal Rules of Civil Procedure.

**APPLICATION GRANTED.
SO ORDERED**

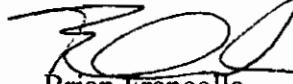
Denny Chin, U.S.D.J. 6/26/08



Moreover, we must ascertain whether the Officers named in this action have been served with the summons and complaint.¹ According to the docket sheet, the individuals identified in the caption of the complaint as Correction Officer Cooper, Captain Thomas and Warden Williams may have been served. We respectfully request an enlargement of time to investigate service and to resolve representation issues. Pursuant to Section 50-k of the New York General Municipal Law, this Office must determine, based on a review of the case, whether we may represent each Officer. Each Officer must then decide whether he wishes to be represented by this Office. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). If so, we must obtain each Officer's written authorization. Only after this procedure has been followed can we determine how to proceed in this case.

In view of the foregoing, it is respectfully requested that the Court grant the within request. Thank you for your consideration herein.

Respectfully submitted,



Brian Francolla

Assistant Corporation Counsel
Special Federal Litigation Division

cc: Mr. Christopher Chisholm (By mail)
Plaintiff Pro Se
 DIN # 9800601206
 15-15 Hazen Street East
 East Elmhurst, New York 11370

¹ According to the docket sheet, the individuals identified in the caption of the complaint as Correction Officer Harris and Correction Officer Washington have not been served with a copy of the summons and complaint. Moreover, upon information and belief, these individuals have not requested legal representation from the Office of the Corporation Counsel. Without making any representation on behalf of these individuals, it is respectfully requested that, in the event they were served, their time to respond to the complaint similarly be enlarged so that their defenses are not jeopardized while representational issues are being decided. Additionally, it appears that service was attempted but unexecuted on Montefiore Medical and Health Services.